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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

LD et al.,

Plaintiffs,

v.

United Behavioral Health et al.

Defendants.

Case No. 4:20-cv-02254-YGR

Hon. Yvonne Gonzalez Rogers

**PLAINTIFFS' REPLY IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

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I. INTRODUCTION

This matter involves claims that patients have from seeking authorized, medically necessary, mental health / substance use disorder treatment at over 1,500 different providers throughout the nation who provided life-saving intensive outpatient treatment. Plaintiffs seek to have ERISA and RICO classes certified by the Court for these claims.

Defendants' response opposing Plaintiffs' motion opposes the motion that they wish Plaintiffs had written instead of the motion that Plaintiffs submitted to the Court. Defendants conflate issues of class certification and merit, misapply the requirements of Rule 23, misstate Plaintiffs' positions, and misstate the relief sought by Plaintiffs. Plaintiffs have set forth the pertinent procedural and legal background in their motion and memorandum seeking class certification [dkt. 168] and do not repeat them here. Plaintiffs' reply to Defendants' opposition [dkt. 205] to Plaintiffs' class certification request will address the many misstatements of law and fact contained therein. Specifically, given Plaintiffs' proposed class definition, for this litigation it is irrelevant whether the Plaintiffs or putative class members' healthcare benefit plans are 'fully insured' or 'self-insured' is irrelevant to the present litigation. There is no meaningful difference in plan language for the plans with claims at issue, those with United's Reasonable & Customary program and this program was administered in a uniform manner utilizing the Viant OPR methodology. Defendants would not be able to operate on the scale at which they do if they did not employ such automated claims' systems.

Defendants attempt to misdirect the Court as to the actual legal theories advanced by Plaintiffs, as to the alleged 'individual' issues that do not actually affect the legal issues, and to push the Court to delve far into inquiry on the merits of Plaintiffs' claims beyond what is necessary for the determination of class certification issues. Plaintiffs also present two rebuttal declarations, from Prof. Mark Hall [Exhibit "1"] and Thomas P. Ralston [Exhibit "2"], to rebut and impeach the assertions and opinions by Defendants in their papers and the declaration of Defendants' sole expert, Prof. Daniel Kessler. The opinions given by Prof. Kessler are unreliable, not supported by record evidence, and misapplies fundamental econometric and healthcare principles, and demonstrates a complete unfamiliarity with the actual processing of

1 **III. CONCLUSION**

2 Accordingly, Plaintiffs respectfully request that the Court grant Plaintiffs' motion for
3 class certification.

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5 [SIGNATURE ON FOLLOWING PAGE]

6
7 Respectfully Submitted,

8
9 Dated: November, 2022 Arnall Golden Gregory LLP

10
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